

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE

☐ Eastern (Jackson) DIVISION
☒ Western (Memphis) DIVISION

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THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN, MEMPHIS

Brad Ward

Plaintiff,

vs.

FedEx Express

Defendant.

No. _____

COMPLAINT

1. This action is brought for discrimination in employment pursuant to (check only those that apply):



Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub. L. No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring a suit in federal district court under Title VII, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 – 634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub. L. No. 92-592, the Civil Rights Act of 1991, Pub. L. No. 102 -166)

NOTE: In order to bring a suit in federal district court under the Age Discrimination in Employment Act, you must first file charges with the Equal Employment Opportunity Commission.



Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 – 12117 (amended by the ADA Amendments Acts of 2008, Pub. L. No. 110-325 and the Civil Rights Act of 1991, Pub. L. No. 1102-166).

NOTE: In order to bring a suit in federal district court under the Americans with Disabilities Act, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.

JURISDICTION

2. Jurisdiction is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub. L. No. 102-166, and any related claims under Tennessee law.

PARTIES

3. Plaintiff resides at:

8212 Sawyer Mill Cv
STREET ADDRESS
Shelby, TN, 38002, 901-387-7057
County State Zip Code Telephone Number

4. Defendant(s) resides at, or its business is located at:

3131 Democrat Dr.
STREET ADDRESS
Shelby, Memphis, TN, 38118
County City State Zip Code

NOTE: If more than one defendant, you must list the names, address of each additional defendant.

5. The address at which I sought employment or was employed by the defendant(s) is:

3131 Democrat Dr., Memphis, TN 38118

STREET ADDRESS

Shelby, Memphis, TN, 38118
 County City State Zip Code

6. The discriminatory conduct of which I complain in this action includes (*check only those that apply*)

- ☐ Failure to hire
- ☒ Termination of my employment
- ☐ Failure to promote
- ☐ Failure to accommodate my disability
- ☐ Unequal terms and conditions of my employment
- ☒ Retaliation
- ☐ Other acts(*specify*): _____

NOTE: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court.

7. It is my best recollection that the alleged discriminatory acts occurred on:

July 13, 2015
 Date(s)

8. I believe that the defendant(s) (*check one*):

- ☒ is still committing these acts against me.
- ☐ is not still committing these acts against me.

9. Defendant(s) discriminated against me based on my:
 (*check only those that apply and state the basis for the discrimination. For example, if religious discrimination is alleged, state your religion. If racial discrimination is alleged, state your race, etc.*)

☐ Race _____

☐ Color _____

☒ Gender/Sex Harassment

☐ Religion _____

☐ National Origin _____

☒ Disability Depression

☐ Age. If age is checked, answer the following:
I was born in _____. At the time(s) defendant(s) discriminated against me.

I was [] more [] less than 40 years old. (check one)

NOTE: Only those grounds raised in the charge filed the Equal Employment Opportunity Commission can be considered by the federal district court.

10. The facts of my case are as follows:

Please see attachment.

(Attach additional sheets as necessary)

NOTE: As additional support for your claim, you may attach to this complaint a copy of the

10. The facts of my case are as follows:

I was employed by FedEx Express from April 16, 2005 until July 13, 2015 as a Senior Avionics Engineer. On July 13, 2015, my employment was terminated for an accumulation of written warnings. Before September 10, 2014, I had no discipline. Although FedEx Express produced a document which shows multiple counselings, I have no recollection of any of these and dispute their validity.

Prior to that, in June 2014, I participated in a SFA survey meeting with my workgroup. At this meeting, issues were discussed including allegations of workplace harassment. I created a report of the SFA meeting which was presented to management.

Shortly after my involvement in this report to management, I was falsely arrested on July 13, 2014 and was released in time for an eight (8) hour shift on July 14. However, because I was physically ill, I requested time off through my wife. When I returned to work, I disclosed all of this to my supervisor who indicated that he already knew about the arrest from the website mugshots.com. Despite completely disclosing all of this to my manager by July 18, I was placed on suspension almost two (2) weeks later and issued a disciplinary letter almost forty (40) days later for not reporting to work on July 14. Not only was this discipline based on a false charge, but it was issued in violation of FedEx's policy mandating that investigations be completed promptly. I grieved this through the GFT process and ultimately complained that this was unlawful harassment and discrimination.

I was on FMLA Leave from September 12, 2014 through October 10, 2014 due to the stress and depression caused by the aforementioned arrest. While off on this protected leave, I was required to address the GFT complaint. Upon my return, I requested to drop the GFT complaint because of the impact of the incident on my health. However, Mr. McFann (my manager) refused to permit the GFT process to be dropped and told me that it did not matter if I wanted to sign the GFT form or not. Shortly thereafter, and as a direct consequence thereof, I suffered a relapse and went back out on leave until approximately November 20, 2014.

Upon my return, I was encouraged to go forward with the GFT process that I had earlier requested to drop. During the Step 1 meeting, my manager, Mr. McFann, indicated that he first learned of the arrest through FedEx security, contradicting his earlier statement that he learned of it through a website.

I proceeded with the GFT Step 2 process and after being denied, made a complaint of my treatment both before and during the GFT process as discriminatory and constituting unlawful harassment. My internal EEO complaint was made on January 5, 2015.

On January 23, 2015, I received my next disciplinary write-up. This was for returning to work late from a lunch break on January 14, 2014. During the break in question, I was providing care for my sick wife, who had fallen seriously ill on New Year's Day. Not only was this discipline

unwarranted, but it was also factually inaccurate in that it referenced an inaccurate schedule for me and was based on the allegation that I was two (2) hours late when, I was approximately five (5) minutes late.

On June 26, 2015, I again participated in another SFA meeting. At this meeting, it was generally discussed that my manager, Mr. McFann, received a low score on parts of his review related to respecting others. In that context, I advised the other members of my group that I felt the manager was dishonest with regard to previous discipline and my prior internal EEO complaint. Approximately two (2) weeks later, I was called into a meeting with my Senior Manager, Jim Tisdale, and instructed to give a written statement regarding what had happened on June 26, 2015. When I asked for clarification as to what was being requested, Mr. Tisdale merely repeated his earlier request, with the added statement that "something had happened" and I needed to write about it. Because I did not understand his request, I did not complete my writing. At that time, Mr. Tisdale took my badge and placed me on suspension. Approximately one week later, I received my third disciplinary action. This as a result of my complaints during the SFA meeting and not completing the writing which Mr. Tisdale did not adequately explain.

Given the events that have been outlined, I believe that I have legitimate claims for retaliation both for my complaints about discrimination and harassment in the workplace and retaliation for my use of FMLA leave. My belief is based, at least in part, on what appears to be pretextual reasons given for the disciplinary actions. More specifically, the 2014 write-up is based on the false assertion that I was incarcerated on the day I took leave. The January 2015 write-up was based on the false assertion that I was two (2) hours late returning from lunch and disciplined me for not writing my time on a board when others were not held to the same standard. The final write-up was for making complaints related to my earlier harassment and discrimination complaints in a process specifically related to voicing complaints about management. Moreover, I was later called in to account for my statements when a similarly situated individual who also voiced complaints was not called to account for his conduct. In light of this, and the timing of the adverse action relative to my protected activity, I have legitimate claims to press against FedEx Express.

charge filed with the Equal Employment Opportunity Commission or the Tennessee Human Rights Commission.

11. It is my best recollection that I filed a charge with the Tennessee Human Rights Commission regarding defendant's alleged discriminatory conduct on: _____
12. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct on: July 17, 2015
Date

Only litigants alleging age discrimination must answer Question #13.

13. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct. (*check one*):

- ☐ 60 days or more have elapsed
- ☐ Less than 60 days have elapsed.

14. The Equal Employment Opportunity Commission (*check one*):

- ☐ has not issued a Right to Sue Letter.
- ☒ has issued a Right to Sue letter, which I received on July 24, 2015
Date

NOTE: This is the date you received the Right to Sue letter, not the date the Equal Employment Opportunity Commission issued the Right to Sue letter.

15. Attach a copy of the Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.

NOTE: You must attach a copy of the right to sue letter from the Equal Employment Opportunity Commission.

16. I would like to have my case tried by a jury:

- ☒ Yes
- ☐ No

WHEREFORE, plaintiff prays that the Court grant the following relief:

- ☐ direct that the Defendant employ Plaintiff, or
 - ☒ direct that Defendant re-employ Plaintiff, or
 - ☐ direct that Defendant promote Plaintiff, or
 - ☒ order other equitable or injunctive relief as follows: \$75,000
-
- ☒ direct that Defendant pay Plaintiff back pay in the amount of \$25,000 and interest on back pay;
 - ☒ direct that Defendant pay Plaintiff compensatory damages: Specify the amount and basis for compensatory damages: \$300,000, based on pain and suffering and humiliation


SIGNATURE OF PLAINTIFF

Date: 10/21/2015

8212 Sawyer Mill CV
Address

Arlington, TN 38002

901-387-7057
Phone Number